

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Dr. Emilio Meyer,

Plaintiff,

v.

GENERAL ELECTRIC COMPANY,
GE INFRASTRUCTURE, INC.,
GE INFRASTRUCTURE SENSING, INC.
GE PANAMETRICS, PANAMETRICS, INC.,
and DOES 1 through 20,

Defendants.

Civil Action No. 1:05-CV-10681 (NMG)

MOTION TO SET ASIDE NOTICE OF DEFAULT

Pursuant to Fed. R. Civ. P. 55(c), Defendant General Electric Company (“GE”) hereby respectfully moves this Court to set aside the entry of default against GE in this case. Good cause exists to excuse the default, as set forth below:

1. After Plaintiff filed his complaint in this action, and served that complaint on Defendants GE and GE Infrastructure Sensing, Inc., in-house counsel representing the GE entities (Matthew Baldini) initiated discussions with Plaintiff’s counsel in an attempt to amicably to resolve this dispute.

2. At Mr. Baldini’s request, Plaintiff’s counsel agreed to grant an extension of time for responsive pleadings to allow the parties to further discuss potential resolution.

3. Shortly after granting the extension, Plaintiff’s counsel filed a request for entry of default as to the parent company, GE (without service on GE’s in-house counsel), and a notice of default was entered by the clerk of court. (Docket Entry No. 6.)

4. After the default was entered, and after GE's counsel learned of the default and asked about it, Plaintiff's counsel agreed that the request for default was made based on a "miscommunication."

5. GE's newly-retained outside counsel for this litigation (Proskauer Rose LLP) then contacted Plaintiff's counsel, discussed the default, and received a written agreement granting an extension of time for *all* of the GE related entities to answer or otherwise plead in response to the complaint. (See Ex. 1 attached hereto, June 1, 2005 letter from Watts to Bauer) ("On behalf of Plaintiff Emilio Meyer, we are prepared to offer GE and its related entity Defendants a responsive pleading extension *up to and including June 20, 2005.*") (emphasis in original).

6. GE, and the related entity defendants, timely filed their answer on June 20, 2005. (Docket Entry No. 11).

WHEREFORE, because 1) the entry of default arose out of a misunderstanding by Plaintiff's counsel; 2) GE has meritorious defenses in this action as set forth in the answer already filed; 3) Plaintiff agreed that GE and all the defendants could have until June 20, 2005 to file their responsive pleading; 4) GE has timely filed this motion to set aside the default; and 5) no prejudice has resulted to Plaintiff in this case, GE respectfully requests that this Court set aside the notice of default, and accept GE's answer and counterclaim as set forth in its June 20, 2005 pleading.

Compliance with Rule 7.1

Counsel for GE have conferred with Plaintiff's counsel, and although Plaintiff does not agree with the filing of this motion, he will not oppose the motion.

June 24, 2005

Respectfully Submitted,

Defendant General Electric Company,

By Its Attorneys,

/s/ Steven M. Bauer

Steven M. Bauer (BBO# 542531)

Kimberly A. Mottley (BBO# 651190)

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June 1, 2005

VIA E-MAIL (sbauer@proskauer.com) & U.S. MAIL

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RE: Meyer v. General Electric Co., et al.
United States District Court (Massachusetts) Case No.
05-10681 NMG

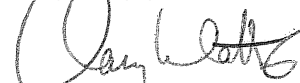
Dear Mr. Bauer:

On behalf of Plaintiff Emilio Meyer, we are prepared to offer GE and its related entity Defendants a responsive pleading extension *up to and including June 20, 2005*.

In case Mr. Baldini did not pass along this information to you, the above-described offer is the third such extension our Firm has made to the Defendants in this matter.

I look forward to receiving your prompt response.

Very truly yours,



Douglas E. Watts

cc: Antonio Valla, Esq.
Stephanie L. Southwick, Esq.
Client (e-mail only)
Avv. Francesca Artoni (e-mail only)

* Not admitted to practice
in the State of California